Calendar No. 1203

98TH CONGRESS
2d Session

SENATE

REPORT
98-620

TO AUTHORIZE DOUGLAS COUNTY, NV, TO TRANSFER CERTAIN LANDS TO A PRIVATE OWNER

SEPTEMBER 19 (legislative day, SEPTEMBER 17), 1984.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1160]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1160) to authorize Douglas County of the State of Nevada to transfer certain land to a private owner, having considered the same, reports favorably thereon without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of S. 1160, as reported, is to release the reversionary interests of the United States in a small tract of land (3,300 square feet or 0.08 acre) in Douglas County, NV; and to authorize county officials to convey the subject tract to the adjacent private landowners.

BACKGROUND AND NEED

The subject parcel, which is surrounded on all sides by private property, was patented to the Douglas County, NV, School District on June 10, 1966, under the Recreation and Public Purposes Act. The original cost to the county was $50. The patent specifies that the land is granted to Douglas County for a vocational school, and that if the patentee uses the land for other purposes, the grant may be terminated. In 1982, the Secretary of the Interior approved a change in use of the tract, allowing it to be used for a public safety center. Since that time, the property has been used by the school district as a schoolbus parking lot.

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A private landowner with property adjacent to the subject tract recently donated to the county a parcel of private land needed to complete a roadway to county buildings. The county, which no longer needs the former Bureau of Land Management [BLM] parcel for schoolbus parking, proposes to donate the BLM parcel for the property acquired from the private owner. However, the Recreation and Public Purposes Act prohibits the transfer of title to lands received under the act by the grantee or its successor unless the transferee would be a qualified transferee under the act. Private parties (persons) are not qualified to receive public lands under the Recreation and Public Purposes Act.

LEGISLATIVE HISTORY

S. 1160 was introduced by Senator Laxalt on April 27, 1983. A hearing before the Subcommittee on Public Lands and Reserved Water was held on June 27, 1983. The administration opposes enactment of S. 1160.

At a business meeting on September 12, 1984 the Senate Committee on Energy and Natural Resources ordered S. 1160 favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on September 12, 1984, by unanimous vote of a quorum present recommends that the Senate pass S. 1160 as described herein.

The rollcall vote on reporting the measure was 20 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield	
Mr. Domenici [1]	
Mr. Wallop	
Mr. Warner	
Mr. Murkowski [1]	
Mr. Nickles	
Mr. Hecht	
Mr. Chafee [1]	
Mr. Heinz [1]	
Mr. Evans	
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum [1]	
Mr. Matsunaga [1]	
Mr. Melcher	
Mr. Tsongas [1]	
Mr. Bradley	
Mr. Levin	

[1] Indicates voted by proxy.

SECTION-BY-SECTION ANALYSIS

Section 1 waives any reversionary interests of the United States in certain real property in Douglas County, NV; and authorizes Douglas County to transfer ownership of subject property to any private person.

Section 2 is the legal description of the subject property.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 14, 1984.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1160, a bill to authorize Douglas County of the State of Nevada to transfer certain land to a private owner, as ordered reported by the Senate Committee on Energy and Natural Resources, September 12, 1984.

The parcel of land involved in this bill was conveyed by the Federal Government to Douglas County, NV, for a fee of $50, under the Recreation and Public Purposes Act. Under that act, if land conveyed ceases to be used for public purposes, title to the land reverts to the Federal Government. This bill removes this public purpose reversionary clause from the title of the affected lands, and authorizes Douglas County to transfer the land to a private party. Preliminary estimates from the Bureau of Land Management indicate that the fair market value of the affected parcel is $15,000 to $20,000.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1160. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1160 as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative reports received by the committee from the Department of the Interior and the Office of Management and Budget setting forth executive agency recommendations relating to S. 1160 are set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, September 4, 1984.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 1160, a bill "To authorize Douglas County of the State of Nevada to transfer certain land to a private owner."

We strongly oppose enactment of S. 1160.

S. 1160 would release any reversionary interest the United States may have in certain real property in Douglas County, NV, and authorize the county to transfer the property to any private person notwithstanding the act of June 14, 1926, or the provisions of any patent granted pursuant to the act concerning the real property described in section 2 of the bill.

The parcel of land described in S. 1160 was patented, along with another parcel, under the Recreation and Public Purposes Act to Douglas County, NV, on June 10, 1966. The patent specifies that the lands are granted to Douglas County for use only as a vocational school. Moreover, its specifies that if the patentee does not comply with the plan of development or the plan of management, the terms of the grant may be terminated by the Secretary of the Interior. The patent further stipulates that the Secretary may, in lieu of forfeiture of title, require the patentee to pay the United States a sum of money based on a specified formula.

In 1982, the Bureau of Land Management approved a change in the use of the parcel, to allow for use as a public safety center. However, we understand that the parcel is not currently being used for any public purpose by the county.

The Recreation and Public Purposes Act prohibits the transfer of title to lands received under the act by the grantee or its successor unless the transferee would be a qualified transferee under the act. Private individuals, apparently the intended transferees under the provisions of S. 1160, are not qualified to receive public lands under the Recreation and Public Purposes Act.

The lands were obtained from the Federal Government for $50, far less than their fair market value, which we estimate to be between $15,000 and $20,000. Having acquired the property at less than fair market value for a specific public purpose, it would be clearly unfair to allow Douglas County to convey this parcel to a private party, nor should Douglas County be allowed to profit by selling these lands to a private party. Moreover, enactment of this legislation would negate the purpose of the Recreation and Public Purposes Act, as well as en-

courage other recipients of lands under the Recreation and Public Purposes Act to request special legislation removing restrictions in patents.

Disposal of this parcel of land can be more appropriately handled through existing Bureau of Land Management land conveyance authority. Under existing law, the Secretary of the Interior is authorized to convey public lands once the planning requirements of the Federal Land Policy and Management Act [FLPMA] have been met. Section 203 of FLPMA provides for competitive sales of parcels of public lands if certain disposal criteria are met. It's provisions also include authority for the Secretary to sell land without competitive bidding or with modified competitive bidding, in order to recognize equitable considerations or public policies. The Bureau of Land Management's Nevada State office has reported that the subject tract meets the first criterion in section 203(a)(1) that "such tract because of its location or other characteristics is difficult and uneconomical to manage as part of the public lands, and is not suitable for management by another Federal department or agency."

The Nevada State office further reported that disposal of the land would not adversely affect BLM land and resource management programs. The tract in question could be sold by direct sale.

Based on this information we would have no objection to conveying the tract through normal administrative means, if fair market value is paid for it. This would be in accordance with section 203 of FLPMA which provides that sales of public lands shall be made at a price not less than fair market value of the lands as determined by the Secretary.

Thus, there is no justification for legislating a conveyance of this tract without payment of fair market value or for bypassing administrative procedures that already exist for the conveyance of public land in appropriate cases.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. STEVEN GRILES,
Deputy Assistant Secretary.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, January 16, 1984.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request of October 25, 1983, for the views of the Office of Management and Budget on S. 1160, a bill "To authorize Douglas County of the State of Nevada to transfer certain land to a private owner."

The Office of Management and Budget concurs in the views of the Department of the Interior as expressed in its testimony before your

committee on this bill on June 27, 1983. Accordingly, we strongly oppose enactment of S. 1160 because it would unfairly allow Douglas County to profit by selling land originally conveyed to the county at less than fair market value. This would be an undesirable precedent. We have no objection to selling the property in question to the county at fair market value under existing authority.

Sincerely,

JAMES M. FREY,
Assistant Director for Legislative Reference.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the committee notes that no changes in existing law are made by the bill S. 1160 as reported.

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Calendar No. 1204

98TH CONGRESS
2d Session

SENATE

REPORT
98–621

FUNDING TO SUPPORT THE NATIONAL MARITIME MUSEUM

SEPTEMBER 19 (legislative day, SEPTEMBER 17), 1984.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1647]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1647) to authorize the use of funds from rental of floating drydock and other marine equipment to support the National Maritime Museum in San Francisco, California, having considered the same, reports favorably thereon with an amendment to the text, and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 1, line 6, after the cite "(Public Law 92–589; 16 U.S.C. 460bb–3(f))" insert the following: ", as amended,".

PURPOSE OF THE MEASURE

The purpose of S. 1647, as reported, is to authorize the Secretary of the Interior to use revenues acquired from the leasing of National Park Service drydock facilities and other heavy marine equipment at Golden Gate National Recreation Area (GGNRA) for the maintenance and restoration of historic ships in the National Maritime Museum at the GGNRA.

BACKGROUND AND NEED

The Federal Government (U.S. Department of the Interior—National Park Service) owns seven historic ships (circa 1915), which are part of the National Maritime Museum in the GGNRA in San Fran-

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cisco, California. In terms of size and tonnage, it is the largest single fleet of historic ships anywhere in the world. The ships are of the steam schooner class that transported lumber, freight and passengers to ports along the west coast in the early part of this century. With the passing away of wind-driven sailing ships around 1900, steam schooners became a principal force in the development of the rich timberlands of the west coast, which in turn was essential to the growth of the West as a whole. Designed for the rough waters of the Pacific Ocean and faster than sailing ships, these steam schooners carried nearly all the lumber used to build homes and railways for the great migration to the West.

All of the ships in this collection need extensive maintenance and restoration. The best known ship in the fleet, the *Wapama* (listed on National Register of Historic Places, and in addition, has been designated as a Historic Landmark), is in the most advanced stage of deterioration. Restoration of the *Wapama* is estimated to cost $4 million. The National Park Service, given budget constraints, has been seeking a means to undertake the repair work at no cost to taxpayers.

The National Park Service also owns the Haslett Warehouse, Cliff House properties, Louis' Restaurant, AFDL–38 Drydock and other heavy marine equipment located at the GGNRA. The Haslett Warehoues, Cliff House Properties and Louis' Restaurant are presently leased out and are projected to produce $1.3 million in revenue per year. Lease of the drydock would provide an additional $75,000 in revenue annually.

S. 1647, as reported, would expand current lease authoity to include the AFDL–38 Drydock and other heavy marine equipment and provides that the revenues received be set aside specifically for restoration and maintenance of the historic ships at GGNRA.

Legislative History

S. 1647 was introduced by Mr. Cranston, for himself and Mr. Wilson, on July 20, 1983. A hearing was held before the Subcommittee on Public Lands and Reserved Water on October 21, 1983.

The Administration is opposed to enactment of this measure.

At a business meeting on September 12, 1984, the Senate Committee on Energy and Natural Resources ordered S. 1647, as amended, favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on September 12, 1984, by unanimous vote of a quorum present recommends that the Senate pass S. 1647, if amended, as described herein.

The rollcall vote on reporting the measure was 20 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield	
Mr. Domenici [1]	
Mr. Wallop	
Mr. Warner	
Mr. Murkowski [1]	
Mr. Nickles	
Mr. Hecht	
Mr. Chafee [1]	
Mr. Heinz [1]	
Mr. Evans	
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum [1]	
Mr. Matsunaga [1]	
Mr. Melcher	
Mr. Tsongas [1]	
Mr. Bradley	
Mr. Levin	

[1] Indicates voted by proxy.

Committee Amendments

The Committee adopted a technical amendment to the text to perfect the cite reference of the Act being amended by S. 1647.

Cost and Budgetary Considerations

The following estimate of the cost of this measure has been provided by the Congressional Budget Office.

U.S. Congress,
Congressional Budget Office,
Washington, DC, September 13, 1984.

Hon. James A. McClure,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 1647, a bill to authorize the use of funds from rental of floating drydock and other marine equipment to support the National Maritime Museum in San Francisco, California, as ordered reported by the Senate Committee on Energy and Natural Resources, September 12, 1984.

S. 1647 would earmark receipts derived from drydock facilities and heavy equipment rentals to be used for the repair and maintenance of historical ships owned by the National Maritime Museum. Receipts from drydock rentals, estimated to be approximately $75,000 a year, currently flow to the U.S. Treasury. Pursuant to S. 1647, these receipts would be credited to the appropriations for the Department of the Interior and would be available for expenditure. This would result in no net budget impact if appropriations are correspondingly reduced, or an increase in spending of $75,000 per year if appropriations are not affected.

Enactment of this bill would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER, *Director.*

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1647. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1647 as reported.

EXECUTIVE COMMUNICATIONS

A legislative report was requested from the Department of the Interior on S. 1647, but was not received at the time the report was filed.

In the absence of a legislative report, the testimony of the Administration witness, presented at a hearing before the Subcommittee on Public Lands and Reserved Water on October 21, 1983, is set forth below:

STATEMENT OF JERRY L. ROGERS, ASSOCIATE DIRECTOR FOR CULTURAL RESOURCES, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. ROGERS. Thank you, Mr. Chairman.

We appreciate the opportunity to present the views of the Department on S. 1647 to authorize the use of funds from the rental of the floating drydock, AFDL–38, and other heavy equipment to support the historic ship fleet at the Golden Gate National Recreation Area, San Francisco, Calif.

The museum and historic ships were included in the original legislation establishing the Golden Gate NRA which was signed into law in 1972, Public Law 92–589.

The nucleus of the museum was the private San Francisco Maritime Museum collection donated in 1978 and the San Francisco Historic Park vessels donated in 1977. Seven

major historic vessels, several requiring major reconstruction, comprise the largest fleet of historic ships in the world. The museum was designated as the National Maritime Museum by Congress in 1978. Current visitation is approximately 500,000 yearly.

The floating drydock, AFDL–38, and other heavy equipment were acquired from the Federal surplus property rolls to provide immediate support for the rehabilitation and for the continuous maintenance of the historic fleet. S. 1647 would direct that the proceeds derived from the rental of the drydock during periods of nonuse by the National Park Service and the rental of other area properties administered by the Secretary be credited to the appropriate appropriation bearing the cost of the administration, maintenance and repair of the historic ships at Golden Gate National Recreation Area. It also provides that any fees collected, surplus to the needs of the fleet, be returned to the Treasury of the United States.

Mr. Chairman, as you know, this administration has consistently opposed the earmarking of revenues for specific projects such as this outside of traditional appropriations and budgetary channels because it undermines the control of the Congress and the President over the expenditure of Federal funds and because it conflicts with the budget process established by the Congressional Budget and Impoundment Act of 1974.

Although we support the restoration of the National Maritime Museum fleet, we cannot support the enactment of this legislation. Instead, we plan to review alternative means of financing this program, including private donations, direct appropriations and admission fees. This area seems well suited for such fees.

Mr. Chairman, this concludes my statement and I'd be pleased to respond to questions. I thank you for accommodating my needs with regard to time this morning.

Changes in Existing Law

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1647, as ordered reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes.

(Pub. L. 92–589, § 2, Oct. 27, 1972, 86 Stat. 1299; Pub. L. 93–544, Dec. 26, 1974, 88 Stat. 1741; Pub. L. 95–625, title III, § 317(a), Nov. 10, 1978, 92 Stat. 3484; Pub. L. 96–199, title I, § 103(a), Mar. 5, 1980, 94 Stat. 68; Pub. L. 96–344, § 4(1), Sept. 8, 1980 94 Stat. 1134; Pub. L. 96–607 title X, § 1001(1)(2), Dec. 28, 1980, 94 Stat. 3544.)

* * * * * * *

Sec. 4. (a) The Secretary shall administer the lands, waters and interests therein acquired for the recreation area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C.

1, 2–4), as amended and supplemented, and the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of this Act. Notwithstanding their inclusion within the boundaries of the recreation area, the Muir Woods National Monument and Fort Point National Historic Site shall continue to be administered as distinct and identifiable units of the national park system in accordance with the laws applicable to such monument and historic site.

(b) The Secretary may enter into cooperative agreements with any Federal agency, the State of California, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement and fire prevention assistance.

(c) The authority of the Army to undertake or contribute to water resource developments, including shore erosion control, beach protection, and navigation improvements on land and/or waters within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary and the Secretary of the Army and which are consistent with both the purpose of this Act and the purpose of existing statutes dealing with water and related resource development.

(d) The Secretary, in cooperation with the State of California and affected political subdivisions thereof, local and regional transit agencies, and the Secretaries of Transportation and of the Army, shall make a study for a coordinated public and private transportation system to and within the recreation area and other units of the national park system in Marin and San Francisco Counties.

(e) No fees or admission charges shall be levied for admission of the general public to the recreation area except to portions under lease or permit for a particular and limited purpose authorized by the Secretary. The Secretary may authorize reasonable charges for public transportation and, for a period not exceeding five years from the date of enactment of this legislation, for admission to the sailing vessel Balclutha.

[(f) Notwithstanding any other provisions of law, in the administration of those parcels of property known as Haslett Warehouse, Cliff House Properties and Louis' Restaurant, the Secretary shall credit any proceeds from the rental of space in the aforementioned properties to the appropriation, if any, bearing the cost of their administration, maintenance, repair and related expenses and also for the maintenance, repair and related expenses of the vessels and the adjacent piers comprising the National Maritime Museum, for major renovation and park rehabilitation of those buildings included in the Fort Mason Foundation Cooperative Agreement, and for a coordinated public and private access system to and within the recreation area and other units of the national park system in Marin and San Francisco Counties: *Provided*, That surplus funds, if any, will be deposited into the Treasury of the United States: *Provided further*, That notwithstanding any other provision of law, in the administration of said parcels the Secretary may, if he deems appropriate, enter into a contract for the management of said parcels of property, with such terms and conditions as will protect the Government's interest, with excess funds being used as set forth above.]

(f) Notwithstanding any provisions of law, in the administration of those parcels known as Haslett Warehouse, Cliff House Properties, and Louis' Restaurant and the AFDL–38 Drydock vessel and other heavy marine equipment located in San Francisco, California, the Secretary shall credit any proceeds from the rental of space in such parcels, and rental of such vessel and other heavy marine equipment, to the appropriation for the maintenance, repair, and related expenses of the vessels which are part of the National Maritime Museum in San Francisco, California. Surplus funds, if any, shall be deposited in the Treasury of the United States.

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